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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,427	01/22/2004	Jonathan Feinberg	260-007 LOT9-2003-0108US1	4906
44185 7590 07/16/2007 LOTUS AND RATIONAL SOFTWARE McGuinness & Manaras LLP 125 NAGOG PARK ACTON, MA 01720			EXAMINER ABDUL-ALI, OMAR R	
			ART UNIT 2178	PAPER NUMBER
			MAIL DATE 07/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/762,427

Applicant(s)

FEINBERG ET AL.

Examiner

Omar Abdul-Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The following action is in response to the response filed April 26, 2007. Amended Claims 1-32 are pending and have been considered below.

1. Examiners Note. The amendments to Claims 13 and 23 overcome the 35 U.S.C. 112, second paragraph rejection for lacking antecedent basis. The rejection has been withdrawn.

2. Examiners Note. The amendments to the Specification and Fig. 23 overcome the objections. The objections have been withdrawn.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 32 remains rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A carrier wave is a form of energy, and does not fall within one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 8-13, 18-23, 28-31 remain rejected under 35 U.S.C. 102(e) as being anticipated by Godefroid et al. (US 6,697,840).

Claims 1, 11, 21, 31, and 32: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems comprising:

- a. sensing the number of instant messaging sessions associated with a user of a remote computer system (column 5, lines 19-46);
- b. conveying said number of instant messaging sessions from remote user to awareness server (column 5, lines 19-46);
- c. conveying said number of instant messaging sessions from remote user to awareness server (column 5, lines 19-46);
- d. presenting, by awareness client application process, said number of instant messaging sessions in a display for said local computer system (column 5, lines 19-46).

Claims 2, 12, 22: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems as in Claims 1, 11, and 21 above, further comprising:

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- a. sensing activity level associated with at least one of said instant messaging sessions associated with said user of said remote computer system (column 5, lines 19-46);
- b. conveying said activity level from remote computer system to awareness server application process (column 5, lines 19-46);
- c. presenting, by awareness application process, activity level associated with user of remote computer system in said display for said local computer system (column 5, lines 19-46).

Claims 3, 13, and 23: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems as in Claims 2, 12, and 22 above, further comprising:

- a. presenting said number of instant messaging sessions and activity level simultaneously in said display for said local computer system (column 5, lines 19-46).

Claims 8, 18, and 28: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems as in Claims 1, 11, and 21 above, further comprising:

- a. presenting modal dialog box in response to detection of a request by user of local computer system for instant message system with user of remote system,

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includes indication of whether or not to terminate said request (column 5, lines 52-55).

Claims 9, 19, and 29: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems as in Claims 1, 11, and 21 above, further comprising:

a. presenting an interface to said local user that indicates whether a number of instant messaging associated with said user of said local computer system is to be shared with other users (column 6, lines 12-18).

Claims 10, 20, and 30: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems as in Claims 1, 11, and 21 above, further comprising:

a. presenting an interface that enables said user of said local computer system to specify one or more other users with which a number of instant messaging sessions associated with local user is to be shared (column 6, lines 12-18).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-7, 13-17, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godefroid et al. (US 6,697,840).

Claims 4, 14, and 24: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems as in Claims 3, 13, and 22 above, but does not explicitly disclose that the activity level reflects a time at which the most recent keystroke was entered by said user of said remote computer system. However, Godefroid does disclose that the start time and end time of a collaboration session is available to users (column 7, lines 52-54). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that a time stamp could be applied to any message sent by a user. One would have been motivated to determine the time the most recent keystroke was entered for record keeping purposes, and to keep track of a user's presence on their computer terminal.

Claims 5, 15, and 25: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems as in Claims 4, 14, and 24 above, but does not explicitly disclose that the activity level reflects a time at which a most recent text message was received by said user of said remote computer system. However, Godefroid does disclose that the start time and end time of a collaboration session is available to users (column 7, lines 52-54). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that a time stamp could be applied to any message received from a remote user. One would have been

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motivated to determine the time at which a most recent text message was received by a remote user for record keeping purposes.

Claims 6, 16, and 26: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems as in Claims 5, 15, and 25 above, further comprising:

- a. activity level indicating time at which instant messaging session was initiated (column 7, lines 52-54).

Claims 7, 17, and 27: Godefroid discloses a method and apparatus implementing presence awareness in collaborative systems as in Claims 5, 13, and 24 above, further comprising:

- a. sensing identity of at least one other participant in an instant messaging session with said user of said remote computer system (column 5, lines 19-46);
- b. conveying said identity from said remote computer system to said awareness server application process (column 5, lines 19-46);
- c. presenting said identity of at least one other participant in said display for said local computer system (column 5, lines 19-46).

Response to Arguments

5. Applicants' arguments filed on April 26, 2007 have been fully considered but they are not persuasive.

Claim 32: Applicants argue the rejection of claim 32 as being directed to non-statutory subject matter. In response to Applicant's argument, it is respectfully submitted that Claim 32 is not limited to tangible embodiments. In view of Applicant's disclosure, specification page 42, line 6, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., floppy disks and hard drives) and intangible embodiments (e.g. carrier wave signaling techniques). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Claims 1, 11, 21, and 31: Applicants argue that "Godefroid et al. is silent with regard to how such messages are processed when received, and/or how information contained in such received messages may be presented to a user"

In response to Applicant's argument, it is respectfully submitted that the information corresponding to the number of instant messaging sessions associated with a user is processed by the presence awareness system and presented to a user in the user interface in Godefroid. Further, the Examiner notes that it is immaterial as to how the messages are processed in view of Godefroid presenting the number of instant messaging sessions associated with a user as an end result of a query by a user.

Applicants argue that "nothing in Godefroid et al. provides any suggestion of even the desirability of performing any determining (e.g. counting the number of instant messaging sessions associated with a user of a remote computer system."

In response to Applicants argument, it is respectfully submitted that Godefroid et al. discloses the claimed limitation as applied above. Godefroid et al. discloses users

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may inquire about the presence of other users when interested, including inquiring if the user is in a collaborative session, and who the other participants in the session are (column 5, lines 19-46).

Applicants argue that “the teachings of Godefroid et al. do not disclose or suggest ‘presenting the number of instant messaging sessions associated with the user of the remote system in a display for the local computer system’...”

In response to Applicants argument, it is respectfully submitted that Godefroid et al. discloses the claimed limitation as applied above. Godefroid et al. discloses users may inquire about the presence of other users when interested, including inquiring if the user is in a collaborative session, and who the other participants in the session are (column 5, lines 19-46).

Claims 4, 14, and 24: Applicants argue that “the teachings of Godefroid et al. do not include anything regarding requesting, recording or providing a time at which a last keystroke was entered in a session by a remote user.”

In response to Applicants argument, it is respectfully submitted that Godefroid et al. discloses the claimed limitation as applied above. Godefroid et al. discloses using a screen saver that comes on when a user has not been actively using input devices, such as a keyboard, for a period of time. Godefroid further shows that the user may inquire how long the screensaver of another user has been on, which would indicate the time a last keystroke was entered (column 5, lines 7-25).

Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

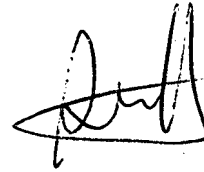
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Abdul-Ali whose telephone number is 571-270-1694. The examiner can normally be reached on Mon-Fri(Alternate Fridays Off) 8:30 - 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OAA
6/28/2007



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